

Deno G. Himonas (05483)
W. Bradford Barber (18601)
WILSON SONSINI GOODRICH & ROSATI
15 West South Temple
Gateway Tower West, Suite 1700
Salt Lake City, Utah 84101
Telephone: (801) 4018520
dhimonas@wsgr.com
bbarber@wsgr.com

Attorneys for Utah Vapor Business Association, Inc.

Trinity Jordan (15875)
Jordan E. Westgate (16098)
DENTONS DURHAM JONES PINEGAR, P.C.
111 South Main Street, Suite 2400
Salt Lake City, Utah 84111
Telephone: (801) 4153000
trinity.jordan@dentons.com
jordan.westgate@dentons.com

Phillip W. Dyer (4315)
Benjamin R. Dyer (13691)
DYER LAW GROUP PLLC
The Langton House
648 East 100 South
Salt Lake City, Utah 84102
Telephone: (801) 3635000
phil@dyerlawgroup.com
ben@dyerlawgroup.com

Walter A. Romney, Jr. (07975)
Katherine E. Pepin (16925)
CLYDE SNOW & SESSIONS
201 South Main Street, Suite 2200
Salt Lake City, Utah 84111
Telephone: (801) 322-3516
war@clydesnow.com
kep@clydesnow.com

Attorneys for Plaintiffs Utah Vapor Business Association, Inc. and The Smoke House, LLC

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

UTAH VAPOR BUSINESS ASSOCIATION, INC., a Utah nonprofit corporation, *et al.*,

Plaintiffs,

vs.

STATE OF UTAH, *et al.*,

Defendants.

DECLARATION OF NICKOLAS JONES

Case No. 2:24-cv-00950-HCN

Judge Howard C. Nielson, Jr.

I, Nickolas Jones, declares as follows:

1. I am over the age of eighteen (18) years old and have personal knowledge of the facts stated herein and, if called, would testify to the same.
2. I am an owner of Riverwalk Vapors, a retail tobacco specialty business (“RTSB”) that operates in Ogden, Utah.
3. On March 24, 2025, in response to the orders entered by the Court in this case, I voluntarily pulled all flavored electronic cigarette products banned under S.B. 61, the Electronic Cigarette Amendments (the “Flavor Ban”), from the shelves of Riverwalk Vapors.
4. Riverwalk Vapors has not sold a flavored electronic cigarette product subject to the Flavor Ban since March 24, 2025.
5. Riverwalk Vapors is under the jurisdiction of the Weber-Morgan Health Department.
6. On April 12, 2025, I received an email from the Weber-Morgan Health Department with the subject line “Weber-Morgan: Weber-Morgan Health Department S.B. 61 Enforcement Update.” A true and correct copy of this email is attached hereto as Exhibit 1.
7. In this email about the enforcement of S.B. 61, the Weber-Morgan Health Department stated: “As far as the Weber-Morgan Health Department, we are currently waiting for additional information and direction from our health officer and attorney.” *See Ex. 1.*
8. I understood this communication to mean that the Weber-Morgan Health Department was waiting for more information from its health officer and attorney before it began to enforce S.B. 61, including the Flavor Ban.

9. This email was sent on April 12, 2025, nearly three weeks after the Flavor Ban went into effect.

10. Despite this delay in enforcement, I still voluntarily chose not to sell any flavored electronic cigarette products that are subject to the Flavor Ban at Riverwalk Vapors.

11. However, I am aware that other stores under the jurisdiction of the Weber-Morgan Health Department have sold flavored electronic cigarette products subject to the Flavor Ban since March 24, 2025, and continue to do so.

12. For example, I am a member of several Ogden community groups on Facebook. I have seen several posts where other members have posted that they purchased flavored e-cigarette products subject to the Flavor Ban after March 24, 2025, from other RTSBs in Ogden.

13. To the best of my knowledge and belief, the Weber-Morgan Health Department has not enforced the Flavor Ban since March 24, 2025, despite the fact that other stores are openly selling electronic cigarette products subject to the Flavor Ban.

14. Since the Flavor Ban went into effect on March 24, 2025, Riverwalk Vapors has experienced an 84.4% decrease in monthly sales.

15. Riverwalk Vapors has suffered harm because it has voluntarily chosen to comply with the Flavor Ban, despite the fact that it is not currently being enforced by the Weber-Morgan Health Department.

16. Meanwhile, other RTSBs that have continued to sell the banned flavored electronic cigarette products have profited to the detriment of Riverwalk Vapors.

DATED: May 19, 2025.



NICKOLAS JONES

[Redacted - A]
[REDACTED]

[REDACTED]

----- Forwarded message -----

From: <qbcourier@quickbasetools.com>

Date: Sat, Apr 12, 2025 at 4:30 PM

Subject: Weber-Morgan: Weber-Morgan Health Department S.B. 61 Enforcement Update

To: <nick@riverwalkvapors.com>

Cc: <ajones@webercountyutah.gov>, <hniedfeldt@webercountyutah.gov>,

<sjacobson@webercountyutah.gov>, <tobacco@webercountyutah.gov>,

<nblanch@webercountyutah.gov>

Dear Retailer,

Weber-Morgan Health Department is not a party to the litigation. The only party left in the litigation is the State of Utah. Given that, the Utah Department of Health and Human Services (DHHS) may have additional information on the matter. As far as the Weber-Morgan Health Department, we are currently waiting for additional information and direction from our health officer and attorney.

Heidi Niedfeldt

tobacco@webercountyutah.gov

801-399-7222